

REMARKS

Applicant has fully considered the Office Action and cited references and submits this reply and amendments in response to the rejections. In the response, Applicant has herein provided clarifying amendments to independent claims 1 and 17. In particular, said amendments more clearly define the customer activity as described in the disclosure and also incorporate the features of dependent claims 7 and 18 into independent claims 1 and 17, respectively. Support for such amendments can be found, for example, in paragraphs [0031], [0036]-[0037], [0040] and [0042] of the disclosure. Therefore, no new matter is introduced in said amendments. Dependent claims 7 and 18 are herein cancelled without prejudice.

Applicant believes that the present application is now in condition for allowance for the reasons set forth below and therefore respectfully requests reconsideration and withdrawal of each and every rejection and a notice of allowance to be timely issued.

Claim Rejection – 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-4, 7 and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over Frey et al. (U.S. Pat. No. 5,305,390), in view of Beach et al. (U.S. Patent No. 5,924,077), and further in view of McConnell et al. (U.S. Patent No. 7,240,027). To begin with, Applicant wishes to thank Examiner Danneman's review of the instant application in view of the cited references. Although Applicant respectfully disagrees with the rejection

of dependent claims 7 and 18, said claims are herein cancelled from consideration in the instant application. Therefore, the rejection of claims 7 and 18 is herein rendered moot.

With regards to the remaining claims, for at least the reasons set forth below, Applicant respectfully submits that the cited references, alone or in combination, do not disclose or otherwise render obvious the subject matter disclosed in Applicant's independent claims 1 and 17, as amended, and therefore claims dependent therefrom. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-4, 17 and 19-20.

As background, "most stores selling goods or services have both a computer transaction system to record sales activity [typically a Point of Sale system] when employees are present and a store security system to watch the store when employees are not present." (see paragraph [0003] of the disclosure). Additionally, "video surveillance systems have been employed to help owners catch employee theft" since "employee theft is the greatest operating loss facing owners." (see paragraph [0005] of the disclosure). At the time of filing of the instant application, large corporations "ha[d] developed extensive security monitoring systems to help catch employee theft." (see paragraph [0006] of the disclosure). However, these systems "requir[e] management personnel and strict employee money handling policies implemented to quickly catch unsophisticated employee theft through a series of daily checks and balances but not through any fully automated system." (*Id.*). To solve these problems, the present invention provides, among other inventive features, "a store 'transaction system' that can

be installed in a store to automatically provide information regarding what revenue the store 'should' be making if all of the customers being serviced are entered into the stores point of sale 'computer system' properly." (see paragraph [0010] of the disclosure).

The manner in which Applicant achieves this is by providing the method for monitoring store transactions (of claim 1) and/or the integrated store and transaction computer system (of claim 17). Each claim requires, *inter alia*, "at least one sensor...sensing information indicative of the customer activity of at least one customer." The method or system receives the sensed customer activity signals and "automatically generat[es] an expected revenue signal" based upon "the customer activity of the at least one customer." The method [or system] also generates "an actual revenue signal [a baseline comparison signal of claim 17] indicative of actual revenue received from the at least one customer" and then "compare[es] the actual revenue signal with the expected revenue signal [or baseline comparison signal]." The method of claim 1 further includes the step of "outputting, automatically an alert signal when a discrepancy is found between the actual revenue signal and the expected revenue signal." Similarly, the system of claim 17 "outputs an alert signal upon determination of a difference exceeding a predetermined amount between the baseline signal and expected revenue signal." Thus, the present claims provide a method or system which is able to automatically correlate a customer's activity, i.e., generate an expected revenue signal based on the customer's activity, to the actual revenue generated from that customer, and then generate an alert or notification if a discrepancy exists.

Frey does not teach or even suggest such a method or system capable of sensing the customer activity of at least one customer and then generating an expected revenue signal based upon the customer activity of the at least one customer. To begin with, Frey cannot sense “customer activity” at all but instead can only sense customer presence, i.e., whether or not there is a customer there, and if so, how many customers are present. Frey is directed to a monitoring system which automatically detects and then “measures” the height of objects or persons moving past a selected location. (see Abstract). Frey’s system detects and measures persons entering a store for the purpose of determining the number of “shopping units...i.e., [people who] may be expected to make purchases in the store,” entering and/or leaving a store, e.g., an adult shopper with children would equal one “shopping unit.” Frey’s system can be used at a store entrance/exit and also within certain sections within the store. However, determining whether or not a customer is in the store, and even where a customer is within the store is not the same as sensing the customer activity of at least one customer and then generating an expected revenue signal based on the customer activity of the at least one customer. Thus, Applicant respectfully submits that Grey does not teach or even suggest sensing the customer activity of at least one customer and then generating an expected revenue signal based upon the sensed customer activity of the at least one customer.

Applicant agrees with Examiner Danneman that Frey does not disclose “generating an expected revenue signal based on customer activity.” Secondary reference Beach is offered for the proposition that it teaches, *inter alia*,

generating an expected revenue signal, as is noted missing from the Frey reference. In particular, the Office Action directs Applicant's attention to column 2, lines 43-59 and column 3, lines 2-20. Applicant has reviewed the sections relied on in the Office Action, and the remainder of the Beach reference, and does not understand the rejection based on said sections, i.e., Applicant does not believe that said sections disclose generating an expected revenue signal. Instead, Beach's system is directed to "a computer based system for more effectively monitoring and processing data collected at the point of sale of goods or services to facilitate the evaluation and management of related business activities." (see column 2, lines 43-47). To evaluate and manage the related business activities, Beach processes actual revenue information received from the PoS system as an indicator of how effective a given business activity was wherein each business activity is assigned to an object value. Essentially, Beach's system converts actual sales data to "object values" representative of a particular business activity and then compares the object values to "predefined reference values" to determine if an applicable business activity was successful. (see col. 15, lines 46-49 and Figs. 10-13). If a particular business activity is determined to be unsuccessful, Beach sets a fail or warning condition, supposedly to alert a manager to change the business activity.

The Office Action appears to relate Beach's use of actual sales information as a measure of the effectiveness of a particular business activity to generating an expected revenue signal as recited in the pending claims. Applicant respectfully disagrees and submits that such techniques are not the

same as generating an expected revenue signal...based upon the customer activity of the at least one customer, as recited in the amended claims.

Further, as Beach does not generate an expected revenue signal, it cannot output an alert signal when a discrepancy is found between the actual revenue signal and the expected revenue signal, as also recited in amended claim 1. Similar arguments apply to the rejection of claim 17 based on the combination of Frey and Beach.

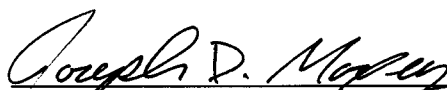
Lastly, with regard to the rejection of claim 20, the Office Action relies on the McConnell reference for the proposition that it teaches use of the internet. Assuming that use of the internet is taught therein, McConnell does not provide the deficiencies noted above with respect to the combination of Frey and Beach. Therefore, even if Frey, Beach and McConnell were combined, said combination does not teach or even suggest each of the inventive features recited in independent claim 17, as amended, and therefore claim 20 which depends therefrom.

For the reasons set forth above, it is Applicant's belief that, alone or in combination, Frey et al. and/or Beach et al. fail to teach the inventive aspects of Applicant's independent claims 1 and 17, as amended, and thus claims 2-4 and 19-20 which depend therefrom. Therefore, Applicant respectfully requests reconsideration and withdrawal of the Examiner's rejection of claims 1-4, 17 and 19-20 under 35 U.S.C. § 103(a).

CONCLUSION

The foregoing is intended to be a complete response to the Office Action dated July 22, 2009. Reconsideration and withdrawal of the rejections is respectfully requested. Should the Examiner have any questions or comments regarding the foregoing, Applicant's attorney would welcome a telephonic interview with the Examiner.

Respectfully submitted,



Joseph D. Maxey, Reg. No. 64,685

DUNLAP CODDING, P.C.

P.O. Box 16370

Oklahoma City, OK 73113

Customer No. 30589

(405) 607-8600 Office

(405) 607-8686 Facsimile

Attorney for Applicant